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V I E W
OF THE
C A S E
OF THE
ROMAN CATHOLICS

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1812.

A
V I E W,

&c.

OF the disabilities and restrictions which yet affect the Roman Catholics of the United Kingdom of Great Britain and Ireland, there are many which might be removed, without affording to the most cautious, jealous, or even most prejudiced Protestant, a reasonable cause of alarm; and if it may not be thought politic or expedient to grant them every one of the objects they may have in view, each privilege conferred must tend to diminish uneasiness, to prevent disorder, to conciliate their minds, and to convince them of the continuance of that spirit of liberality towards them, which has been so marked a characteristic of the public opinion during His present Majesty's reign.

It has been asserted, that the real aim of some at least of that persuasion is, not only

that they should enjoy every civil franchise, but that their religion should be constituted the established religion of Ireland, and that they should be exempted from the payment of tithes to the Clergy of the National Protestant Church. Such pretensions as the two last, if they exist, are unreasonable; they are points which cannot be conceded to them, consistently with the general welfare and tranquillity of the State, and they themselves cannot expect them to be granted.

But is it just or fair to urge, because such views may possibly exist in the minds of some, that restrictions, which are unnecessary for the security of Protestantism, and which, in a greater or lesser degree, affect the feelings, the consciences, or the interests in private life of the great mass of the Roman Catholic population, shall continue in full force?

It is, however, true that the Roman Catholic, paying tithe, and also contributing to the support of a Minister of his own persuasion, actually pays two Ecclesiastics instead of one, and that the one is of no immediate benefit to himself; yet he is affected, in this respect, no otherwise than every other Dissenter from the Establishment.

Let us now, first, consider how far it may be practicable to place on a footing of perfect equality, the Roman Catholics with the members of other dissenting congregations, and the Roman Catholics of Great Britain with those of Ireland; and what further concessions may unexceptionably be made to them, gratuitously: and let us then, in the second place, examine what restrictions would still remain; what would, at such time, be the situation of the Roman Catholics; in what respects it might differ from that of any other Dissenters; and what part of such restrictions may be said to affect their liberties or their enjoyments; and what part be more properly considered in the light of non-interference with the internal interests of another communion. Under the first of these heads, it will probably be found that almost every grievance, affecting more especially the inferior classes of the laity, may be removed: and under the second will be discussed the very important objects, to the higher orders of the laity, of admission to Parliament, and to a participation of political power; and to the Clergy, of such improvement of their condition, as may not be incompatible with the security and rights of the Established Church. The arrangement of these last-mentioned points should be objects of negotiation between the two parties; and in such negotiation, stipu-

lations must be expected for a solemn and perpetual abandonment, on the part of the Roman Catholics, of those claims which cannot be complied with, consistently with the interests of that religion which must ever be deemed the religion of the British Empire, and a disavowal of such principles as may create alarm.

In the course of the negotiation, there may perhaps be some matters which may require, on the part of the Roman Catholics, the consent and approbation of the See of Rome; and, in the position in which the Pope now stands, that consent may not be immediately obtainable. Should that prove to be the case, certain articles might, by mutual agreement, be reserved, till the state of politics in Europe may admit of the necessary communication. Certain oaths may also be deemed necessary to be prescribed, under particular circumstances. It has been asserted by some, that the Roman Catholics cannot be trusted, for that oaths do not bind them as other men, and that their Church can relieve and absolve them from such obligation. This principle is unequivocally denied, from the highest authorities in their Church; and it may be asked whether, at the present moment, reliance is not placed on the oaths of the Roman Catholics, in a variety of instances; and whether many of the disabilities

under which they labour, do not arise solely from their scrupulous objections to the taking of oaths, which would not exist if they believed they could be absolved from such obligation.

Towards placing the Roman Catholics of Great Britain on an equality with those of Ireland, an Act of Parliament, similar to the Irish statutes of 32 Geo. III. c. 21, and 33 Geo. III. c. 21, would be requisite, conferring upon them all the privileges recited in those Acts of the Irish Parliament, *mutatis mutandis*. It is however to be observed, that from the repeal of the Test and Corporation Acts in Ireland, and from those Acts continuing in force in Great Britain, the Roman Catholics of this part of the United Kingdom would still remain subject to certain restrictions here, by which they are not affected in Ireland. This is a distinct consideration, which no longer affects them as members of the communion of the Church of Rome, and only generally with all those in England who dissent from the Established Church; and should be reserved till some modification of those laws is brought under examination.

The British statute of the 1 Geo. I. c. 1, should be repealed, which imposes penalties on

Roman Catholics enlisting in His Majesty's service. In fact, this Act may be considered as, virtually, no longer in force, the practice for many years having prevailed of admitting persons of that persuasion into every branch of the military service, and the expediency and propriety of the measure recognised by the Legislature, in the alteration of the Articles of War, by the leaving out of the oath taken by soldiers enlisting, the words, "And I do swear that I am a Protestant." It should, however, be expressly repealed.

Soldiers, seamen, paupers in workhouses, poor-houses, or hospitals, prisoners in gaols or houses of correction, and all other persons whosoever,* should be protected in the privilege, if they think fit, when sick or dying, of being attended by an ecclesiastic of their own persuasion. It is, perhaps, not likely that such consolation should be very frequently refused; it does, however, occasionally happen; and the possibility of its occurring should be prevented by penalties on the refusal of such indulgence.

* Officers, non-commissioned officers, and private soldiers who are Roman Catholics, should not be compellable to attend divine service in the Established Church, but be permitted by law freely to go to places of worship of their own

communion, when practicable and within their reach. This may readily be effected, by a slight alteration of the first section of the first Article of the Articles of War, by inserting, after the words, "All officers and soldiers not "having just impediment," the words, "from "conscience or otherwise." They now enjoy this privilege under an order from the Commander-in-Chief; but they should have a legal right.

The protection which the law affords to other Dissenters from the Established Church, should be extended to Roman Catholics, against any molestation, disturbance, or interruption, during the celebration of divine service.

No Roman Catholic Ecclesiastic should be liable to any penalty, for declining to reveal secrets confided in him, *bonâ fide*, at confession.

Roman Catholics should not be liable to penalties for coming into His Majesty's presence. As the law now stands (30 Cha. II. st. 2. c. 1. § 5), they are subject to such penalties, with the exception of Roman Catholic Peers. This restriction is also considered as virtually no longer in force, and no possible evil could arise from its repeal.

Roman Catholics, with the exception of Peers and the sons of Peers, are obliged to be married in a Protestant church, and by a Protestant clergyman. This obligation is very offensive to their feelings, and there seems to be no solid objection to relieving them from the same, as well as the Roman Catholic clergymen from penalties for performing the marriage ceremony; the punishment heretofore was death, but, since 1793, the penalty of 500*l.* seems to be substituted. A doubt, however, still exists in the minds of some, whether the punishment of death might not be enforced. Regulations can surely be devised for publication of banns, or for licenses, and for registers of marriages, which might answer every useful purpose.

Roman Catholics should no longer be prohibited (21 & 22 Geo. III. c. 24. Irish stat.) from taking by descent, or otherwise, or from purchasing, lands or tenements in boroughs which send representatives to Parliament, or advowsons.

(32 Geo. III. c. 23. § 4.) Roman Catholic patrons of ecclesiastical preferment should be permitted to present to benefices, without the necessity of a conveyance to a trustee. It is a

privilege connected with property, from the enjoyment of which no inconvenience whatever could arise, as the bishop of the diocese has the power of preventing any possible abuse, by refusing institution. Quakers, and even Jews, may now present to a benefice.

Roman Catholics should be permitted to enter, and take degrees, in the Universities of Oxford and Cambridge, as they may now by law at Trinity College in Dublin. His Majesty has the power of making the necessary alterations in the statutes of those Universities. For the protection, however, of the Established Church, Roman Catholics should not be admitted to professorships nor to fellowships in colleges, nor to act as college tutors to Protestant students, nor to vote in convocation, nor to hold any ecclesiastical office or employment connected with, or dependent upon, the Established Church. In Dublin, students of the Roman Catholic persuasion have opportunities of attending places of worship of their own communion. This is not the case at Oxford or Cambridge; but if the number of Roman Catholic students in British universities should ever become very considerable, chapels would no doubt be opened for their reception. There would be little cause for serious apprehension of their making many converts; it has not been found to be the case

in Dublin: on the other hand, it might not be unlikely, that some of the Roman Catholic students might themselves become Protestants.

Roman Catholics should also be allowed to become doctors of physic, and members of the Royal College of Physicians. At present they may only be licentiates of such college.

Roman Catholics should not be prevented from subscribing money to charitable uses, under the same regulations as other subjects of the realm.

In Ireland, Roman Catholics may endow colleges or schools, and may become masters and mistresses of such endowed schools. The same privilege should be extended to them in Great Britain. It may, however, be very worthy of consideration, whether Protestants should not be rendered liable to penalties, throughout the whole of the United Kingdom, who send their children for education to Roman Catholic seminaries.

It seems that there is no positive law against the establishing of monasteries or nunneries within this realm. Yet Roman Catholics, legally, may not support any monastic order. This appears inconsistent, and they ought to

have the right conferred upon them to do so, But certain limitations should be imposed, relative to the admission of novitiates of either sex. Such limitations have been in use in many countries where the Roman Catholic religion has been the established religion of the state.

Roman Catholics, under a certain amount of property, are prohibited, in Ireland, from keeping in their houses arms or ammunition. As magistrates are empowered, under a late Act of Parliament, to restrain *any persons*, whom they shall think unfit, from possessing arms or ammunition, there appears to be no necessity for retaining a prohibition, specifically applying to Roman Catholics, and unpleasant to their feelings when they are included under the general power granted to magistrates, by the Act above-referred to.

Roman Catholics in Great Britain should be allowed the elective franchise, which they enjoy in Ireland, and Roman Catholic Peers authorized to vote at the elections of the elective Peers of Scotland and Ireland.

(33 Geo. III. c. 21.) Roman Catholics in Ireland may be in the commission of the peace, and act as magistrates, and may also act as peace officers. This privilege, as well as every

other which they possess in Ireland, should be extended to them in Great Britain. But this would require a partial relaxation of the Test Laws, and which should apply also to all other Dissenters *. In England a Roman Catholic is liable to serve, by deputy, the offices of high and petty constable, churchwarden, and overseer of the poor. It is hard to compel a man to serve an office by deputy, the duties of which he is not allowed to discharge in person †.

There seems to be no reasonable objection to allowing Roman Catholics to vote in parish vestries on any matter relating to the poor, to taxes, or to property, or to their serving in person the office of overseer of the poor. But as persons of the established Church should not be permitted to intermeddle with any ecclesiastical concerns of the Roman Catholics, so likewise, as a matter of reciprocity, Roman Catholics ought not to serve the office of churchwarden, either in person or by deputy; nor should they be allowed to vote in vestry on objects which

* By 31 Geo. III. cap. 52, Roman Catholics, as to holding offices, are placed on the same footing as Protestant Dissenters, and are only affected by the Test Act.

† The case of Evans (House of Lords, Feb. 4, 1767) applies to Roman Catholics as well as to Protestant Dissenters.—They are precisely on the same footing as to providing deputies, or paying fines for not serving offices.

relate to the Church, or to any ecclesiastical concern of the established Church.

Some still entertain a doubt, whether, under the statutes of recusancy, a person reconciled to the See of Rome, or procuring others to be so reconciled, is not guilty of high treason; whether a Roman Catholic may hold any office or employment, or bring an action at law, or suit in equity; or possess a horse above the value of five pounds; or travel five miles from home without license; or be married, or buried, or have a child baptized, except by a minister of the Church of England; whether a married woman, if recusant, shall not forfeit two thirds of her dower, or be imprisoned, unless her husband shall redeem her by a payment of ten pounds per month; whether a Roman Catholic may not still be deemed a recusant convict, and suffer death; and whether a Roman Catholic priest born in the dominions of the Crown of England, coming from beyond sea, and three days in England without conforming to the established religion, is not guilty of high treason. It is true that the Act of the 31 Geo. III. cap. 52, relieves them from all the *penalties* of recusancy. These statutes seem thus to have become obsolete, and consequently there can be no good objection to their being repealed, as being highly repug-

nant to the feelings of the Roman Catholics, especially, if a doubt should remain, whether they can be put in force.

To this extent it is presumed no liberal-minded Protestant could object to an amelioration of the situation of the Roman Catholics. Some of the objects proposed to be conceded are merely matters of toleration, or extension to the Roman Catholics of Great Britain, of privileges already possessed and enjoyed by those of Ireland; whilst others seem necessary on the plea of consistency, or are called for on the principle of humanity.

Let us now proceed, in the second place, to inquire what would then be the situation of the Roman Catholics, to what restrictions and disabilities they would still be liable, in what respects their condition would be different from that of other Dissenters from the established Church, and what part of those restrictions and disabilities which would yet remain, should only be considered as non-interference with the interests of another communion.

They would not be permitted to vote in convocation in Protestant universities, nor to hold professorships or fellowships, nor as college tutors to take Protestant pupils; nor to hold any eccle-

siastical office or employment connected with or dependent upon the established Church, nor to hold the office of churchwarden, nor to vote in any parish vestry, on any matter of an ecclesiastical nature, relating to the Protestant church. When it is considered that the Roman Catholics enjoy precisely the same privileges exclusively in their own College of Maynooth, and the sole direction of their own ecclesiastical concerns, and that in all such respects a perfect reciprocity exists between the two churches, it may not unfairly be presumed, that the continuance of such regulations would not seem objectionable, or give umbrage to any Roman Catholic.

They would still also be excluded from corporations, in common with all other Dissenters, under the operation of the Corporation Act, but would not be affected thereby as Roman Catholics. As such, then, they would have no especial cause of complaint, and they would participate with all others who dissent from the established Church, in case of any modification or relaxation of the Test and Corporation Acts.

The only cases in which they would remain affected as Roman Catholics would be these:—By the Bill of Rights the King, if he professed the religion of the Church of Rome, or if he

married a Roman Catholic, would be excluded from the Crown. Roman Catholics would be incapable of sitting and voting in either House of Parliament, and would be excluded from holding any of the several offices enumerated in the Irish statutes of 32 Geo. III. cap. 21, and 35 Geo. III. cap. 21. The exclusion of Roman Catholics from the Crown of this realm is a fundamental law, and essentially connected with the existence of the country as a Protestant state; and as the limitation cannot affect any subject, there remains to be considered only *the exclusion from Parliament, and from the great offices of the State*; or, in other words, *the exclusion from political power*: and here should the line be drawn by those who are alarmed at the idea of intrusting the Roman Catholics with a participation of that power.

But would such relaxation of the laws affecting persons of the communion of the Church of Rome as above mentioned, afford them complete satisfaction? Most unquestionably not: nor can it be wondered at. Having already been so much relieved from the oppressed and degraded state to which they had been reduced under former reigns, and feeling themselves so much advanced towards an equality of rank and condition with their Protestant fellow-subjects, it is but natural that they should be

anxious for the removal of all remaining distinctions. To the higher ranks in society it would open a noble field to honest ambition; and although the holding seats in Parliament, and high offices in the state, can only become the lot of an inconsiderable number of persons in the community, and seems to be a matter of little moment to those who, from their station in life, are not very likely to obtain them, yet, when considered as a point of honour, the pride of every Roman Catholic becomes interested, and it thus is an object to them all to be relieved from these, equally with other disabilities. In the course of a negotiation between commissioners appointed on each side, arrangements may be devised to settle these points in a manner which may prove satisfactory to both parties. It cannot be expected that the Roman Catholics should agree to any compromise in matters of faith or doctrine; if they did, they would no longer be Roman Catholics: but it would be incumbent upon them to give the most solemn and most indubitable pledges of their principles in all other matters, when about to be restored to an equal participation of all civil rights, and so as to leave the Constitution of this realm, both as to spirituals and temporals, in a state of unequivocal security. Every article as to marriages, divorces, legitimacy, descent, wills, or

any matters which they consider in a different light from that in which they are regarded by Protestants, should be fully investigated, and rules laid down for their precise regulation. But the principal point to be satisfactorily defined and explained, is the light in which they hold the supremacy of the Pope, which appears to have been the only objection to the grant of further indulgences to them, in the opinion of Mr. Justice Blackstone, when he published his *Commentaries*, previous to any relaxation of the penal code (see Blackstone's *Commentaries*, vol. iv. p. 55); the principles of the Roman Catholics in that respect being considered by him as extending to the subversion of civil government. It has been contended also, by some great ecclesiastical and legal authorities, that the admission into Parliament, and into offices of power in this country, would be contrary to His Majesty's Coronation Oath.

The attachment of the superior orders of the Roman Catholics to their Sovereign and to the Constitution, has never, for a long period of time, been called in question; and nothing seems wanting to render their admission to Parliament, and their competency to hold offices of power and confidence, unobjectionable, but such a clear definition of their sense of the Pope's supremacy, and such a declaration of

their full acknowledgment of the rights of the established Church, as it is understood they have no scruple or hesitation to give. It has been said that a Roman Catholic party would be formed in the House of Commons, for the purpose of enforcing measures for the advancement of their own faith, and the undermining of the Protestant church. Such an alarm must be totally unfounded: were such an attempt made, it would instantly cause suspicion and counteraction on the part of the Protestant members, far exceeding them in number. Besides which, they would have nothing to gain by such a combination, when they should actually be in the enjoyment of a complete participation of every civil right, their church secured in the possession of every privilege except that of actual establishment as a national religion, and the line of distinction between the two churches clearly laid down for ever, by a solemn preliminary compact.

In respect to the eligibility to hold offices, will it follow, that because they may be rendered capable of holding such offices, these will be conferred upon them to the exclusion of Protestants? Will not the appointment to such offices be vested in the executive power? and can it possibly be imagined, that a Protestant Sovereign, and an Administration supported by

the United Parliament and by the country, would conspire together to form a Roman Catholic ascendancy? It does seem then most clear, that these two remaining, and certainly most important privileges, may be conceded to the Roman Catholics on certain conditions, providing for the perfect security and tranquillity of the Protestant interest: and thus may a political and civil union be for ever established between those who may still differ in points of faith, to the disappointment and dismay of our enemies, and for the increase of our national strength and prosperity.

But it has been asserted, from high and most respectable authority, that the conceding privileges to the Roman Catholics is contrary to the Coronation oath. This oath is the same as that taken by King William, when the Roman Catholics held seats in Parliament, and offices of trust and power. The words of the oath are these, that the Sovereign "will, to the utmost of his power, maintain the Protestant reformed religion, established by the law; and preserve unto the Bishops and Clergy of this realm, and to the Churches committed to their charge, all such rights and privileges as by law do or shall appertain unto them, or any of them."—Can it be contended, that the concession of civil privileges,

the removal of civil disabilities, or the extension of toleration, is an abandonment of the principle of maintaining the Protestant reformed religion in all its rights and privileges? It does, however, seem equally clear, that the substituting the Roman Catholic religion in lieu of the Church by law established in Ireland, would be a direct breach of the Coronation oath. The course to be taken is then plain and distinct.

The objects hitherto discussed apply almost exclusively to the Roman Catholic laity. The situation of the clergy of that communion, and how far it may be found practicable to improve it, is also highly interesting, and deserving of consideration.

Is it not compatible with the supremacy of the Pope in matters of faith and doctrine, that the King of this realm should be the patron of the Roman Catholic Church within the same; and that the appointment of Archbishops and Bishops, and of the Provost and Professors of the College of Maynooth, should be vested in His Majesty? The appointment of Vicars-general or Archdeacons, of the parochial Roman Catholic clergy, and of the teachers of Roman Catholic schools and seminaries, could not be

more safely or more respectably lodged than in the hands of their own diocesans, who, in the distribution of their patronage, would, from duty and conscience, and a perfect knowledge of characters, select the most distinguished persons for piety, learning, and loyalty.

Previous to the Reformation, there were many laws enacted, limiting the powers of the Popes, in this country, as to the disposal of ecclesiastical preferment. (See statutes 25 Edw. III. stat. 6; 27 Edw. III. stat. 1. c. 4, and stat. 2. c. 1, 2, 3, and 4; 12 Rich. II. c. 15; 13 Rich. II. stat. 2. c. 2 and 3; statute of Præmunire, 16 Rich. II. c. 5; 2 Hen. IV. c. 3.) It was enacted, that "the Court of Rome shall not present to bishopricks or livings in England, under fine and imprisonment on any disturbing a patron, by virtue of Papal provision." The principle therefore is not novel, nor inconsistent with the practice when the Roman Catholic religion was the established religion in this country; and the connexion which it would create between the Crown and the Roman Catholics, through the medium of their bishops and inferior clergy, would tend very much to keep up harmony and a good understanding, and be for the advantage of all.

It was suggested some time since, with a view to relieve the Roman Catholics from a proportion of their expenses, arising from their payment of tithes to the Protestant clergy, and providing at the same time for those of their Church, that a part of the provision for the latter should be defrayed by the State, as has been long practised in the north of Ireland, in the case of the Protestant Dissenters, and has never been considered as a reflection upon them, or as a matter of reproach. It is however understood, that the offer was declined by the Roman Catholic clergy, lest a jealousy should arise in the minds of their congregations, and a suspicion be entertained, that this provision was held out to detach the clergy from the laity, whilst no specific removal of restrictions and disabilities appeared to be in contemplation for the latter. But when all restrictions are about to be taken off, no such suspicion can any longer be dreaded; and the Roman Catholic clergy may now with honour, and due regard to their own character, accept, without scruple, a provision from the State. A handsome income should be granted to the archbishops and bishops, and a suitable stipend to the vicars-general and the parochial clergy.

The Capitulation of Limerick, October 3, 1691, granted to the Roman Catholics "the

“ exercise of their religion, *with such privileges as were permitted by law, or they enjoyed, in the reign of King Charles II.* ;” and it was stipulated that “ their Majesties, when their affairs would permit, should convene a Parliament, from which they would endeavour to procure them such *further security* as, in this respect, would exempt them from disturbance.”

It has been shewn, that the Coronation oath taken by King William was the same as that since and now in use, and that at that time Roman Catholics held seats in Parliament. The Capitulation of Limerick also confirmed to them those privileges which they enjoyed during the reign of King Charles II. ; one of which privileges was, admission into the two Houses of Parliament ; and held out to them an expectation of further exemptions.

May it not then be asserted, that the concessions proposed to be made to the Roman Catholics do not militate against the Coronation oath, and are but a compliance with what was held out to them by the Capitulation of Limerick ; that every privilege, with the exception of seats in Parliament, and the holding high offices in the State, may instantly be conferred upon them without alarm to the most

scrupulous Protestant; and that the two last may also be extended to them with perfect safety, if such an explanation be given, under the sanction of the See of Rome, or of the body of Roman Catholic Clergy within the United Kingdom, of the light in which the Roman Catholics of the present time consider the supremacy of the Pope, as they can give conscientiously, and if they will renounce solemnly certain tenets said to be erroneously imputed to them; but the unequivocal renunciation of which appears to be absolutely indispensable to quiet the alarms of His Majesty's Protestant subjects.

THE END.

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